

UTHAIWAN WONG-OPASI,)
)
 Plaintiff,)
 v.) No. 3:04-0646
) JUDGE ECHOLS
 RICHARD R. ROOKER, et al.,)
)
 Defendants.)

Pending before the Court is the Report and Recommendation ("R & R") entered by the United States Magistrate Judge on November 7, 2005 (Docket Entry No. 67), recommending that this Court grant Defendants' Motion to Dismiss (Docket Entry No. 49) because of Plaintiff Uthaiwan Wong-Opasi's failure to state a claim against them. See Fed.R.Civ.P. 12(b)(6). No objections have been filed.

Where no timely objections are made to a Report and Recommendation, the Court "may accept, reject, or modify the recommended decision, receive further evidence, or recommit the

matter to the magistrate judge with instructions." Fed.R.Civ.P. 72(b).

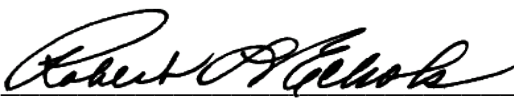
Having carefully reviewed the R & R, the Defendants' Motion to Dismiss, and Plaintiff's opposition to the Motion to Dismiss (Docket Entry Nos. 56 & 57), the Court agrees with the Magistrate Judge that, even taking as true all of the facts included in the Complaint, Plaintiff fails to state a Fourteenth Amendment claim against the Defendants for denial of access to the courts under 42 U.S.C. § 1983. Although the R & R suggests dismissing the case without prejudice, the Court will modify the R & R to the extent that dismissal of the case will be with prejudice. See Pratt v. Ventas, Inc., 365 F.3d 514, 522 (6th Cir. 2004) (noting dismissal for failure to state claim under Rule 12(b)(6) is judgment on the merits and is done with prejudice).

Accordingly, the Magistrate Judge's R & R (Docket Entry No. 67) is hereby ACCEPTED AS MODIFIED. Defendants' Motion to Dismiss is hereby GRANTED. (Docket Entry No. 49).

This case is hereby DISMISSED WITH PREJUDICE.

Entry of this Order on the docket shall constitute entry of final Judgment in accordance with Federal Rules of Civil Procedure 58 and 79(a).

It is so ORDERED.


ROBERT L. ECHOLS
UNITED STATES DISTRICT JUDGE